

IN THE DISTRICT COURT OF THE UNITED STATES
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
ASHEVILLE DIVISION

CRIMINAL NO. 1:06CR167

UNITED STATES OF AMERICA

vs.

LUIS OCAMPO VALENTIN

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ORDER

THIS MATTER is before the Court on Defendant's motion for reduction of sentence pursuant to 18 U.S.C. § 3582(c)(2) based on the recent amendments to the Sentencing Guidelines with regard to offenses involving crack cocaine. **See Defendant's Motion for Reduction of Sentence, filed September 26, 2008.**

The Defendant and seven co-defendants were charged with conspiracy to possess with intent to distribute cocaine and crack cocaine in violation of 21 U.S.C. §§ 841 and 846. **Bill of Indictment, filed August 7, 2006.** The Defendant entered into a plea agreement with the Government wherein it was stipulated that the amount of **cocaine** attributable to the Defendant was at least 500 grams but less than 2 kilograms. **Plea**

Agreement, filed December 11, 2006, at 2. The original Guideline calculations were based on the stipulated quantity of ***cocaine powder*** rather than on ***cocaine base***. **See Presentence Investigation Report, prepared April 30, 2007, ¶¶ 1, 3, 24, & 30.** Therefore, Amendment 706 to the Sentencing Guidelines has no effect on the Defendant's sentence and his motion is denied.

IT IS, THEREFORE, ORDERED that the Defendant's motion for a reduction of sentence is hereby **DENIED**.

Signed: October 31, 2008

A handwritten signature in dark ink, appearing to read "L. H. Thornburg", written over a horizontal line.

Lacy H. Thornburg
United States District Judge

